

10-1145
LOCALLY ASSESSED PROPERTY
SIGNED 11-03-2010

BEFORE THE UTAH STATE TAX COMMISSION

PETITIONER 1 & PETITIONER 2, Petitioner, vs. BOARD OF EQUALIZATION FOR SALT LAKE COUNTY, STATE OF UTAH, Respondent.	INITIAL HEARING ORDER Appeal No. 10-1145 Parcel No. ##### Tax Type: Property Tax/Locally Assessed Tax Year: 2009 Judge: Marshall
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Presiding:

Jan Marshall, Administrative Law Judge

Appearances:

For Petitioner: PETITIONER 1, *Pro Se*

For Respondent: RESPONDENT REP., Appraiser for Salt Lake County

STATEMENT OF THE CASE

Taxpayer brings this appeal from the decision of the Salt Lake County Board of Equalization (“the County”). This matter was argued in an Initial Hearing on August 19, 2010. The Salt Lake County Assessor’s Office assessed the subject property at \$\$\$\$ as of the January 1, 2009 lien date, which the Board of Equalization sustained. The County is asking the Commission sustain the Board of Equalization value. The Taxpayer is requesting the value of the subject property be reduced to \$\$\$\$.

APPLICABLE LAW

Utah Code Ann. §59-2-103 provides for the assessment of property, as follows:

- (1) All tangible taxable property located within the state shall be assessed and taxed at a uniform and equal rate on the basis of its fair market value, as valued on January 1, unless otherwise provided by law.

For property tax purposes, “fair market value” is defined in Utah Code Ann. §59-2-102(12), as follows:

“Fair market value” means the amount at which property would change hands between a willing buyer and a willing seller, neither being under any compulsion to buy or sell and both having reasonable knowledge of the relevant facts. For

purposes of taxation, "fair market value" shall be determined using the current zoning laws applicable to the property in question, except in cases where there is a reasonable probability of a change in the zoning laws affecting that property in the tax year in question and the change would have an appreciable influence upon the value.

A person may appeal a decision of a county board of equalization, as provided in Utah Code Ann. §59-2-1006, in pertinent part below:

- (1) Any person dissatisfied with the decision of the county board of equalization concerning the assessment and equalization of any property, or the determination of any exemption in which the person has an interest, may appeal that decision to the commission by filing a notice of appeal specifying the grounds for the appeal with the county auditor within 30 days after the final action of the county board.

Any party requesting a value different from the value established by the County Board of Equalization has the burden to establish that the market value of the subject property is other than the value determined by the County Board of Equalization. To prevail, a party must: 1) demonstrate that the value established by the County Board of Equalization contains error; and 2) provide the Commission with a sound evidentiary basis for changing the value established by the County Board of Equalization to the amount proposed by the party. The Commission relies in part on *Nelson v. Bd. of Equalization of Salt Lake County*, 943 P.2d 1354 (Utah 1997); *Utah Power & Light Co. v. Utah State Tax Comm'n*, 590 P.2d 332, 335 (Utah 1979); *Beaver County v. Utah State Tax Comm'n*, 916 P.2d 344 (Utah 1996) and *Utah Railway Co. v. Utah State Tax Comm'n*, 5 P.3d 652 (Utah 2000).

DISCUSSION

The subject property is parcel no. #####, located at ADDRESS in CITY. It is a 0.31-acre lot improved with a twenty-three year old two-story home with a stucco and stone exterior. It has 3,985 square feet above grade, and a 2,194 square foot finished basement. The home has six bedrooms, four and one-half bathrooms, four fireplaces, and a three-car garage.

Taxpayer testified that he spoke to a real estate agent about the subject property in February 2009 and was told that he would be lucky to get between \$\$\$\$ and \$\$\$\$\$. He stated that the subject subdivision, SUBDIVISION 1, is inferior to the surrounding neighborhoods. He said that there is a variety of homes in the subdivision, and that the subject is the largest home in the neighborhood. In support of his requested value, the Taxpayer submitted the following comparable sales:

	Lot Size	GLA	Basement	Year Built	Sales Date	Sales Price
Subject	0.31	3,985	2,194	1986		
ADDRESS 2	0.28	5,354	2,206	1987	2/12/09	\$\$\$\$\$*
ADDRESS 3	0.38	3,985	2,520	1983	6/26/09	\$\$\$\$\$*
ADDRESS 4	0.42	5,062	2,113	1979	6/4/09	\$\$\$\$\$*
ADDRESS 5	0.24	4,656	2,411	1992	7/22/09	\$\$\$\$\$*
ADDRESS 6	0.22	4,212	1,980	1990	6/88/09	\$\$\$\$\$*

* Bank-owned property or short sale.

In support of the Board of Equalization value, the County's representative submitted a retrospective appraisal that determined a value of \$\$\$\$\$ for the subject as of January 1, 2009. Following are the comparables used in the County's appraisal:

	Lot Size	GLA	Basement	Year Built	Sales Date	Sales Price	Adj. Sales Price
Subject	0.31	3,985	2,194	1986			
ADDRESS 7	0.25	3,357	2,134	1988	7/1/08	\$\$\$\$\$	\$\$\$\$\$
ADDRESS 8	0.34	3,429	1,272	1996	2/9/09	\$\$\$\$\$	\$\$\$\$\$
ADDRESS 9	0.50	4,942	2,121	1999	10/3/08	\$\$\$\$\$	\$\$\$\$\$
ADDRESS 10	0.50	3,004	2,069	1986	7/21/08	\$\$\$\$\$	\$\$\$\$\$
ADDRESS 11	0.47	3,515	1,900	1994	7/28/08	\$\$\$\$\$	\$\$\$\$\$

The County's representative noted that all of the Taxpayer's comparables were either short sales or bank-owned properties. He provided a packet of 54 sales in the same area as the subject. He noted that only fifteen of the fifty-four were short sales or bank-owned properties, and argued that distressed sales are not driving the market. The County's representative also noted that the market was declining in 2008, and continued to decline in 2009.

The Taxpayer stated that he drove by all of the County's comparables, and that they are all superior to the subject, and that three of them sold six months prior to the lien date. He also noted that several of the properties have (X) views.

In seeking a value other than that established by the board of equalization, a party has the burden of proof to demonstrate not only an error in the valuation set by the County Board of Equalization, but also provide an evidentiary basis to support a new value. Property tax is based on the market value of the property as of January 1 of the tax year at issue under Utah Code Ann. §59-2-103. Utah Code Ann. §59-2-102 defines "market value" as the amount for which property would exchange hands between a willing buyer and seller.

The Taxpayer provided five comparable sales in support of his requested value, all of which were bank-owned properties or short sales, and sold after the lien date. The County's representative provided fifty-four sales in the area, all of which sold for more than \$\$\$\$\$, and fifteen of which were short sales or bank-owned properties. There were a number of non-distressed sales that occurred prior to the lien date. Comparables provided by the Taxpayer are

not the best indication of value for the subject. The Taxpayer has not sustained his burden of proof to show error in the Board of Equalization value, or to support a reduction to \$\$\$\$\$.

Jan Marshall
Administrative Law Judge

DECISION AND ORDER

On the basis of the foregoing, the Commission finds the value of the subject to be \$\$\$\$\$ as of January 1, 2009, and sustains the Board of Equalization. It is so ordered.

This Decision does not limit a party's right to a Formal Hearing. Any party to this case may file a written request within thirty (30) days of the date of this decision to proceed to a Formal Hearing. Such a request shall be mailed to the address listed below and must include the Petitioner's name, address, and appeal number:

Utah State Tax Commission
Appeals Division
210 North 1950 West
Salt Lake City, Utah 84134

Failure to request a Formal Hearing will preclude any further appeal rights in this matter.

DATED this ____ day of _____, 2010.

R. Bruce Johnson
Commission Chair

Marc B. Johnson
Commissioner

D'Arcy Dixon Pignanelli
Commissioner

Michael J. Cragun
Commissioner

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